

**Comparison of Provisions of the District Court (Amendment) Bill 1999
and Provisions of the District Court Ordinance (Cap. 336)**

I. New Provisions Added only

Bill (Clause)	District Court Ordinance (DCO) (section)	Short Summary of Content	Observation/Remarks
3	2 (Interpretation)	definitions of "action for personal injuries"; "authorised institution"; "charging order"; "judgment creditor"; "judgment debtor"; and "personal injuries".	"action for personal injuries" and "personal injuries" are defined in the same way as in Rule 4(1) of Order 1 of the Rules of High Court (Cap. 4 sub. leg.) ("RHC").
27	53 (Review of orders made in the absence of parties)	A judge or registrar may review an order in the absence of parties if an application is made by a party within 28 days of the issue of the order. Fresh evidence and oral submission are allowed. Review does not bar appeal or stay execution of order.	
	53A	The District Court ("DC") has discretion	

	(Costs)	to order costs but not against any person not a party to the relevant proceedings in the absence of express statutory provisions.	
34	66B (Witness expenses)	A judge or registrar may reimburse a witness for reasonable and properly incurred expenses.	
36	68A (Effect of writs of execution against goods)	The writ of fieri facias or other writ of execution against goods binds the property of the goods of the execution debtor on issuance but will not affect persons who having acquired them in good faith and without notice.	This is adopting substantially section 21C of the High Court Ordinance (Cap. 4) ("HCO").
	68B (Sale of property in execution of judgment)	Apart from shares in private companies, tools of trade and the necessary apparel and bedding of the judgment debtor not exceeding \$10,000, the property of a judgment debtor may be attached. Purchasers purchasing from the bailiff and bailiffs are not liable for goods seized and sold before receipt of claims. DC has power to set aside any sale of immovable property in case of irregularities.	This new section adopts section 21D of the HCO.
39	71A (Registrar may apply for an order)	The Registrar may apply summarily to DC for direction in difficult or doubtful case.	This new section adopts section 40 of HCO.

II. Provisions repealed and substituted by new provisions

Bill (clause)	Provisions of DCO repealed (section)	New Provisions added	Substantive Difference between provisions repealed and new provisions/short summary of contents	Observation/Remarks
7	7 (Deputy District Judges)	7 (Appointment of deputy District Judges)	Appointment of Deputy District Judge by Chief Justice may now be made for any reason (subsection (1)) or for any specified case or class of cases only (subsection (3)).	
	8 (Power of a deputy District Judge)	8 (Power of a deputy District Judge in part-heard cases)	The new section relates to part-heard case only but the other provisions in the existing section are now covered in section 7.	
8	13 (Seal of Court)	13 (Seal of the Court)	No substantive change.	
9	14(1) (Officer of the Court)	14(1) (Officer of the Court)	"chief judicial clerks" added.	
	14(4)	14(4)	"temporary deputy registrar" and "temporary assistant registrar" added.	

12	23 (Enforcement of fines)	23 (Enforcement of fines and forfeited recognizances)	<ul style="list-style-type: none">- DC may also enforce recognizance forfeited.- Subsection (2) specify the procedure for initiating the enforcement proceedings.- Subsection (3) now defines "fine" to include penalty imposed in civil proceedings and payable to the court.	
20	32 (General jurisdiction in actions of contract and tort)	32 (General jurisdiction in actions of contract, quasi-contract and tort)	<ul style="list-style-type: none">- General jurisdiction now includes actions founded on quasi-contract.- Actions for personal injuries are expressly included in the Court's general jurisdiction.- Contributory negligence admitted by the plaintiff may be taken into account in calculating the Plaintiff's claim for the purpose of determining the Court's jurisdiction.- Interpleader proceedings up to \$600,000 included in DC's jurisdiction.- Jurisdiction limit now at \$600,000.	

22	34 (Abandonment of part claim to give court jurisdiction)	34 (Abandonment of part of claim to give Court jurisdiction)	No substantive change apart from jurisdiction limit having been raised.	
	35 (Jurisdiction for recovery of land)	35 (Jurisdiction for recovery of land)	Jurisdiction limit is calculated with reference to rateable value only. The existing section allows calculation with reference to annual value of the land.	
	36 (Jurisdiction where title in question)	36 (Jurisdiction where title in question)	Ditto	
	37 (Equity jurisdiction)	37 (Equity jurisdiction)	The jurisdiction limit for proceedings wholly involve or wholly relate to, or partly involve or relate to, land is \$3,000,000.	
		38 (Jurisdiction under the Married Persons Status Ordinance (Cap. 182))	DC now has jurisdiction to determine questions of title and disputes over possession of property between husband and wife.	This is a new provision. It is unclear whether the jurisdiction of court under this new section is limited as provided in sections 35 and 36.

		39 (Agreements as to jurisdiction)	The parties may notwithstanding the statutory jurisdiction limit of DC by agreement confer jurisdiction on DC over matters which DC otherwise would not have jurisdiction.	New provision.
	38 (Jurisdiction as to counterclaim)	40 (Counterclaims)	Jurisdiction as to counterclaims will be the same as that of claims by plaintiffs. The existing procedural provisions are repealed without specific substitution.	Cases where counterclaim exceeds the jurisdiction of DC are dealt with under provisions governing proceedings beyond the jurisdiction of the Court and commenced in the Court.
	37A (Exclusion of actions within jurisdiction of Small Claims Tribunal)	41 (Saving)	The saving of exclusive jurisdiction of the Small Claims Tribunal is extended to the Lands and the Labour Tribunal.	
	39 (Procedure where proceedings beyond jurisdiction are commenced in the Court)	42 (Procedure where proceedings beyond the jurisdiction of the Court are commenced in the Court)	The new section provides that the DC may at its own motion or on the application of any party order a claim or counterclaim beyond its jurisdiction or the whole proceedings be transferred to the Court of First Instance ("CFI") or, if it thinks fit, strike out the action.	Transfer upon notice given by the defendant is abolished. Formal application for transfer must be made.

		43 (Transfer to the Court of First Instance of proceedings within the jurisdiction of the Court)	Proceedings within the Court's jurisdiction may at its own motion or on the application of any party be transferred to the CFI.	
	40 (Transfer to Court from Court of First Instance of proceedings within jurisdiction of the Court)	44 (Transfer to the Court from the Court of First Instance of proceedings within the jurisdiction of the Court)	Under the new section, CFI may either of its own motion or on the application of any party order all or part of an action within DC's jurisdiction be transferred to DC, unless there is reason that the action ought to remain in CFI.	
		44A (Transfer to the Court from the Court of First Instance where the parties consent)	Action in CFI may by parties' consent be transferred to DC unless CFI is of the opinion that it ought to remain.	
	41 (Transfer of interpleader proceedings from Court of First Instance to Court)			
	42 (Interpleader generally)			

	43 (Costs in transferred cases, etc.)	44B (Costs in transferred cases, etc.)	The new sections now also provides for the costs in respect of an action transferred from a tribunal to DC. Actions founded on quasi-contract are added.	
23	47 (Venue)			
		47A (Power of the Court to order disclosure, etc. of documents before commencement of proceedings)	DC may order disclosure of documents before commencement of proceedings for personal injuries or arising out of the death of a person.	This is a substantive reproduction of section 41 of HCO.
		47B (Extension of powers of the Court to order disclosure of documents, inspection of property, etc.)	DC may order disclosure of documents against person not a party to proceedings, in which a claim for personal injuries or arising out of the death of a person is made.	This is substantially the same as section 42 of HCO.
		47C (Provisions supplementary to sections 47A and 47B)	DC has power to make rules in respect of sections 47A and 47B and to award costs to a person against whom an order is sought under section 47A and 47B.	This is substantially the same as section 43 of HCO.

		<p>47D (Powers of the Court exercisable before commencement of action)</p>	<p>DC has power to order inspection, photographing, preservation, custody and detention of property which may become relevant to proceedings for personal injuries or arising out of the death of a person.</p>	<p>This is substantially the same as section 44 of HCO.</p>
		<p>47E (Application to Government of sections 47A to 47D)</p>	<p>Sections 47A, 47B, 47C are binding on the Government. Section 47D binds the Government in so far as it relates to property which may become subject-matter of subsequent proceedings for personal injuries or arising out of the death of a person.</p>	<p>This is substantially the same as section 45 of HCO.</p>
	<p>48 (General ancillary jurisdiction)</p>	<p>48 (General ancillary jurisdiction)</p>	<p>Subsection (3) requires DC to give the same effect to equitable interest and etc over legal claims and etc as in the past.</p>	<p>It is unclear what "in the past" is intended to mean.</p>
		<p>48A (Power to award damages as well as, or in substitution for, injunction or specific performance)</p>		<p>This is similar to the last portion of section 52(1).</p>

	<p>49 (Interest on claims for debt and damages)</p>	<p>49 (Interest on claims for debt and damages)</p>	<ul style="list-style-type: none"> - Interest on payment before judgement may be ordered for period between the date of cause of action arose and the date of payment. - Rates of interest and method of calculation to be provided for in the Rules of Court. - The sum referred to in subsection (3) is increased to \$30,000 from \$3,000. 	<p>The new subsection (4) is modeled on section 48(3) of HCO.</p>
	<p>50 (Interest on judgments)</p>	<p>50 (Interest on judgments)</p>	<p>DC may now order the rate of interest to be paid on judgment debt and different rates may be calculated for different periods.</p>	<p>The new section is similar to section 49 of HCO.</p>
<p>25</p>	<p>52A (Power of Court to impose charges on land of judgment debtor)</p>	<p>52A (Power of Court to impose charging order)</p>	<p>Court may now impose charging order on judgment debtor's property other than land or interest in land.</p> <p>New subsection (2) stipulates the circumstances DC has to consider in deciding whether to make an order.</p> <p>New subsection (3) extends the application of the section to arbitration awards and foreign judgments.</p>	<p>The new section 52A follows section 20 of HCO.</p>

		52AA (Property which may be charged)	The new section provides for charging beneficial interest and trust property in land, specific securities and funds in court.	This new provision is substantially the same as section 20A of HCO.
		52AB (Provision supplementary to sections 52A and 52B)	Miscellaneous provisions relating to the making, the effect, the varying and discharge of the charging orders made by DC.	This is substantially the same as section 20B of HCO.
	52B (Receivers)	52B (Injunction and receivers)	The new section provides also for granting of injunction including interlocutory injunction.	The new section follows section 21L of HCO.
	52C (Attachment of debts)	52C (Attachment of debts)	"Bank" in the existing section is replaced by "authorized institution".	The new section has otherwise no substantive difference from the existing section and is similar to the provisions of section 21 of HCO.
30	59 (Examination of witnesses outside Hong Kong)	59 (Examination of witnesses outside the jurisdiction of the Court)	The new section is similar to the existing section except with the omission of procedural references.	
		59A (Production of documents to other courts, etc.)	The new provision provides for the production to any other court or tribunal of documents in the custody of the Registry of DC.	

32	63 (Appeal to Court of Appeal)	63 (Appeal to Court of Appeal)	Appeals to the Court of Appeal ("CA") against judgment of DC is to be regulated by rules of court. Appeal to CA from order made pursuant to sections 20, 29, 48B or 52D of DCO may be made without leave.	
37	69(1) (Provision as to forfeiture for non-payment of rent)	69 (Relief against forfeiture by action for non-payment of rent)	The existing provision is wholly repealed. The new provision follows section 21F of HCO.	
	69(2)	69A (Service of writ in lieu of demand)	No substantive change.	
	69(3)	69B (Relief against forfeiture by re-entry for non-payment of rent)	Apart from the jurisdiction limit, no substantive change.	
	69(4)	69C (Interpretation and application of this section and sections 69, 69A and 69B)	<ul style="list-style-type: none"> - A definition of "trial" is added. - Savings for the Government's rights of re-entry under the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) in section 69C(2). 	

38	70 (Solicitors)	70 (Solicitors)	The jurisdiction of DC over solicitors is made the same as HC. Existing section only governs the enforcement of solicitor's undertaking in relation to proceedings in DC.	
40	72 (Civil Procedure Rules)	72 (Rules of Court)	<ul style="list-style-type: none"> - The Rules Committee's power to make rules is extended to method of pleading in DC and the procedure and practice to be followed in the Registry of DC. - The judge has discretion to excuse a party from compliance with any rule. 	Subsections (2), (3), (4) and (5) of the new section are similar to subsections (2), (2A), (4) and (5) of section 54 of HCO respectively.
		72A (Rules for commencing proceedings for estates of deceased persons)	The Rules Committee has power to make rules for proceedings against or by a deceased person or his estate.	This new section is similar to section 55A of HCO.
		72B (Rules as to proof of facts and admission of statements in civil proceedings)	The Rules Committee is empowered to make rules as to the means of proving facts, mode of giving evidence and conditions for giving expert evidence.	The provisions of the new sections are similar to subsections (1), (6), (8), (10), (11) and (12) of section 55B of HCO.

		<p>72C (Rules as to stop orders and notices)</p>	<p>The Rules Committee is to make rules for stop order in respect an interest in prescribed securities and the service of such order.</p>	<p>The provisions of the new section are similar to subsections (1), (2), (3), (4) and (5) of section 55C of HCO.</p>
		<p>72D (Orders for interim payment)</p>	<p>The Rules Committee has power to make rules for the making of interim payment.</p>	<p>- The provisions of the new section are similar to subsections (1), (2), (3), (4), (5)(a) and (6) of section 56 of HCO. - Subsection (6) refers to Crown Proceedings Ordinance (Cap. 300).</p>
		<p>72E (Orders for provisional damages for personal injuries)</p>	<p>The Rules Committee has power to make rules for awarding damages on current condition of an injured person and for awarding further damages if his condition deteriorates.</p>	<p>The provisions of the new section are substantially the same as section 56A of HCO.</p>

III. Provisions repealed without substitution

Bill (Clause)	DCO (section)	Remarks
28	54 (Trustees and personal representatives) 55 (Claims by employees for wages) 56 (Persons jointly liable) 57 (Bankruptcy of Plaintiff)	The provisions repealed deal with procedural matters which will be dealt with under the revamped rules of court.
31	61 (Proceedings not to be set aside for want of form)	The matter is to be covered by the new rules of court.
35	67 (Levy on goods etc. in first instance)	Ditto
42	89 (No action for false imprisonment)	The section relates to imprisonment authorised under a writ of fieri facias before the commencement of Debtors (Arrest and Imprisonment) Ordinance 1984.
43	90 (Transitional)	The effect of this provision has been spent.

IV. Provisions amended

Bill (Clause)	DCO (section)	Brief Summary of Amendment	Observation/Remark
3	2 (Interpretation)	"Registrar" is redefined to include a deputy registrar and assistant registrar appointed under section 14.	It is not clear why temporary deputy registrar and temporary assistant registrar are omitted from this amendment.
4	3 (Establishment of the District Court of Hong Kong, and general jurisdiction thereof)	Subsection (1) is reworded.	No substantive change.
5	4 (Constitution of the District Court)	Proviso to section 4(3) is reproduced as subsection (4).	Ditto

6	6 (Proceedings to be disposed of by a judge sitting alone)	<ul style="list-style-type: none"> - Subsection (1) is reworded. The sole judge sitting provision is now subject to section 58 and the rules of court. - The addition of "or Registrar" in subsection (2) gives the Registrar equal power as a judge in disposing post-trial/hearing matters. - Subsection (3) is reworded so that disposition of business in court shall be the rule subject to exceptions expressly authorised in the Ordinance or the rules of court. 	Under the existing subsection (3), the judge seems to have the discretion to hear cases in court or in chamber.
9	14(5) (Officer of the Court)	"(Cap. 4)," replaced by "(Cap. 4)".	No substantive change.
10	15 (Right of audience)	<ul style="list-style-type: none"> - Proviso to subsection (1) is repealed and reproduced as subsection (1A). - Proviso to subsection (2) is repealed and reproduced as subsection (2A). 	Ditto
11	20 (Committal for contempt)	The upper limit of fine (not exceeding \$5,000) in section 20(ii) is removed.	
13	25 (Registrar to take charge of fees etc.)	Paragraph (c) is amended by deleting the exception by virtue of section 19(3).	The whole of section 19 has been deleted in 1981. This amendment is a consequential amendment.

14	26 (Officer illegally demanding fees)	<ul style="list-style-type: none"> - "Any officer" is substitute a by "An Officer". - In paragraph (a), "of \$2,000" is replaced by "at level 6". 	No substantive change except the upper limit of the fine on summary conviction is now \$100,000 (i.e. level 6).
15	27 (Falsely pretending to act under authority of the Court)	In paragraph (i), "of \$2,000" is replaced by "at level 6".	The upper limit of the fine on summary conviction is now \$100,000 (i.e. level 6).
16	28 (Falsely representing documents to have been issued from the Court)	"of \$5,000" is replaced by "at level 5".	The upper limit of the fine on summary conviction is now \$50,000 (i.e. level 5).
17	29 (Rescuing goods)	<ul style="list-style-type: none"> - Penalty upon summary conviction is now a fine at level 5 and imprisonment for 12 months. - On indictment, the penalty is imprisonment for 2 years. 	<ul style="list-style-type: none"> - The fine for summary conviction has been increased from \$1,000 to \$50,000 (i.e. level 5). - Penalty for conviction on indictment is provided for. - The power of judge to fine and commit to prison is abolished.
18	30 (Assaulting officers)	Ditto	Ditto
19	31 (Revocation of committal order)	Reference to sections 21, 29 and 30 is repealed.	The power to make committal order under sections 21, 29 and 30 has been repealed by provisions of this Bill. Hence, this is a consequential amendment.

21	33 (Money recoverable by enactment)	<ul style="list-style-type: none"> - The jurisdiction limit in section 33(1)(b) is raised to \$600,000. - Two stylistic changes in section 33(1) and (2): "shall have" to "has" and "shall" to "does". 	
24	52 (Extension of jurisdiction to grant injunctions and to make declarations)	<ul style="list-style-type: none"> - The jurisdiction limit for all matters affecting movable property (section 52(1)(a)) and matters of contract not within paragraphs (a), (b) or (c) (section 52(1)(d)) is raised to \$600,000. - The jurisdiction limit for all matters affecting immovable property (section 52(1)(c)) is raised to \$240,000. - Reference to section 51 in subsection (2)(b) is deleted as section 51 has been repealed in this Bill. 	The jurisdiction of DC under section 52(1)(c) is calculated with reference to both rateable value and annual value of the immovable property. This seems to be different from the provisions of the new sections 35, 36 and 37.
26	52E (Prohibition on debtor leaving Hong Kong)	<ul style="list-style-type: none"> - "Rules of the High Court (Cap. 4 sub. leg.)" is replaced by "rules of court" in section 52E(8)(a)(i). - "prescribed in the Rules of the High Court (Cap. 4 sub. leg.) is replaced by "set by the Chief Justice" in section 52E(10). 	<ul style="list-style-type: none"> - The Rules of Court are yet to be published. - Forms will be set by the Chief Justice.
29	58 (Assessors)	The proviso in section 58(2) is repealed and becomes subsection (3).	No substantive change.

33	66A (Penalty for neglect of witness summons)	<ul style="list-style-type: none">- The upper limit of fine for neglect of witness summons in section 66A(1) is repealed.- The proviso in section 66A(1) is repealed and reproduced as subsection (1A).	
41	73A (Amendment of limits of jurisdiction)	References to sections 34 and 41 are repealed because the new sections 34 and 41 no longer contain provisions specifying jurisdiction limits.	No substantive change in overall effect.
44		<ul style="list-style-type: none">- Consequential amendments to sections 134(1) and 232(1) of the Copyright Ordinance (Cap. 528) regarding the references to section 32 of DCO being the general jurisdiction of DC.- Consequential amendment to Order 78 rule 1(1) of the RHC regarding the reference to sections 38 or 39. They are provisions relating to procedures governing transfer of cases to CFI and are replaced by new sections "42 or 43".	No substantive change in their respective context.

45-47		These are technical amendments necessitated by a change in the Chinese nomenclature for "registrar" (司法常務主任 to 司法常務官) and "Court" (法院、法庭 to 區域法院) in the relevant Ordinances and subsidiary legislation where such expressions appear.	
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Legal Service Division

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